



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,418	07/18/2003	Adriano Rosa	71480-0003	1417
20915	7590	11/30/2004	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			GUADALUPE, YARITZA	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/604,418

Applicant(s)

ROSA, ADRIANO

Examiner

Yaritza Guadalupe McCall

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-56 and 59-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-36 and 59-72 is/are allowed.
- 6) ☒ Claim(s) 37-39, 44, 49 and 53-56 is/are rejected.
- 7) ☒ Claim(s) 40-43, 45-48 and 50-52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

In response to Amendment filed September 23, 2004

### ***Allowable Subject Matter***

1. The indicated allowability of claims 37 - 56 is withdrawn in view of the newly discovered reference(s) to Mansfield et al. ( US 6,594,922 ). Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 37 – 56 are rejected under 35 U.S.C. 102 ( e ) as being anticipated by Mansfield et al. ( US 6,594,922 ).

Mansfield et al. discloses an apparatus comprising a base insole ( See Figure 1 ) in the general shape of a person's footprint having a lateral portion ( 14, 16 ), a medial portion ( 10 ), and an arch stability portion ( 12, 20 ), and adapted for correcting both pronation and supination (See Columns 5 and 6, lines 64 – 67 and 1 – 10 respectively ) in combination with one arch control pad ( 20 ) for adjusting the support of the person's arch; wherein the arch control pad is selected based upon a lateral angular alignment measurement of the person's foot.

Mansfield et al. also discloses the base insole ( 2 ) being divided into an irregularly-shaped supination control portion ( See Figure 1 and 2 ) extending along the lateral portion of the base insole, an irregularly-shaped motion control portion extending along the medial portion of the base insole, and a crescent-shaped arch stability portion ( 12, 20 ) extending along the arch portion of the base insole. Mansfield et al. further teaches the at least one supination control pad comprising an angularly-shaped member having a variable wedge-shaped cross section ( See Figure 6 ) corresponding in size and shape to the supination control portion of the base insole, and having an anterior end, a posterior end, a medial edge, and a lateral edge, wherein the thickness of the at least one supination control pad decreases from the lateral edge to the medial edge, and from a portion along the lateral edge to the anterior end and the posterior end

Mansfield et al. further teaches the at least one motion control pad comprises an irregularly-shaped elongated member having a variable wedge-shaped cross section corresponding in size and shape to the motion control portion of the base insole and having an anterior end, a posterior end, a medial edge, and a lateral edge, wherein the thickness of the at least one motion control pad decreases from the medial edge to the lateral edge, and from the portion along the medial edge to the anterior end and the posterior end ( See Column 7, lines 3 – 24 ).

Mansfield et al. teaches the at least one arch stability pad comprises a crescent-shaped member ( See Figure 6 ) having a generally wedge-shaped cross section corresponding in size and shape to the arch stability portion of the base insole, and having an anterior end, a posterior end, a medial edge, and a lateral edge, wherein the thickness of the at least one arch stability pad decreases from the center medial edge to the lateral edge, the anterior end and the posterior end.

Mansfield et al. further discloses the corrective alignment insole assembly having at least one arch stability pad comprising a supplementary arch stability pad comprising a crescent-shaped member having a generally wedge-shaped cross-section for attachment to the at least one arch stability pad for increasing the maximum thickness of the at least one arch stability pad at the arch stability portion of the base insole, and having an anterior end, a posterior end, a medial edge, and a lateral edge, wherein the thickness of the supplementary arch stability pad decreases

Art Unit: 2859

from the center medial edge to the lateral edge. Mansfield et al. also teaches said corrective insole assembly wherein the base insole further comprises a resilient heel cushioning zone for cushioning impact to the heel; and wherein the resilient heel cushioning zone comprises a pattern of cutout sections adapted to provide resilient cushioning immediately beneath the person's heel.

Mansfield et al. also discloses an assembly wherein the resilient heel-cushioning zone comprises a low-density gel pad adapted to provide resilient cushioning immediately beneath the person's heel; and wherein the low-density gel pad comprises a low-density gel polymer ( See Column 7, lines 47 – 61 ).

***Allowable Subject Matter***

4. Claims 1 – 36 and 59 – 72 are allowed.
5. Claims 40 – 43, 45 – 48 and 50 – 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments, see pages 14 – 17 of remarks, filed September 23, 2004, with respect to the rejection(s) of claim(s) 1 and 57 - 58 under USC 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Mansfield et al. ( US 6,594,922 ) for claims 37 - 56.

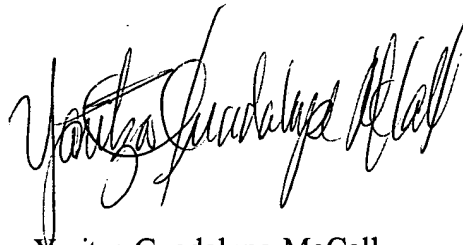
***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2859

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Yaritza Guadalupe-McCall', is written over a horizontal line.

Yaritza Guadalupe-McCall  
Patent Examiner  
Art Unit 2859

YGM  
November 29, 2004